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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,667	02/20/2004	David M. Shilliday	53982/297547	7279

7590 11/16/2006

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EXAMINER

WILHELM, TIMOTHY

ART UNIT PAPER NUMBER

3616

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,667

Applicant(s)

SHILLIDAY ET AL.

Examiner

Timothy D. Wilhelm

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/02/05 & 8/15/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Examiner acknowledges Applicant's remarks filed on 8/15/2006 with regard to rejections made in Examiner's first office action. With regard to claims 1 and 12, Examiner acknowledges that the Smith reference (US 6,648,368) does not meet the limitation set out in claims 1 and 12 "in which inflation of the second portion commences before inflation of the first portion." Examiner respectfully withdraws these prior rejections and applies a new set of rejections as described below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Welch et al (6,276,712). Welch et al disclose a protective device for an occupant of a vehicle comprising an inflator 8, an inflatable cushion 2 having first 3 and second portions 9, the first portion 3 being above the second portion 9 when the vehicle is upright, and in which inflation of the second portion 9 commences before inflation of the first portion 3. The second portion 9 comprises a material that decreases in length and is distributed substantially uniformly and continuously throughout the second portion 9 when inflated so as to create tension. The first portion 3 comprises a node adapted, when inflated, to be positioned at approximately head and torso level of the occupant

Art Unit: 3616

and comprises uninflated material 13 adjacent the at least one inflatable node 3. With regard to the order of inflation, the inflator 8 is directly coupled to the second portion 9 of the inflatable cushion 2 and thus gas from the inflator must inherently pass through the second portion 9 before entering the first portion 3. As such, inflation of the second portion 9 commences before inflation of the first portion 3.

Claim Rejections - 35 USC § 103

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al in view of Bark et al (5,322,322). Welch et al disclose the invention except for an inflator capable of moving as the inflatable curtain inflates. Bark et al teach a side impact protection system comprising an inflator 22 that moves when an air bag 11 is inflated. Therefore, it would have been obvious to one of ordinary skill in the art the time of the invention to apply the teaching of Bark et al of a moveable inflator to the side protection system of Welch et al to allow the protective device to be more compact during non-use.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-


Art Unit: 3616

272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TDW

 10/30/06
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600